

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

2021 MAY -6 PM 1:37

MARGARET BOTKINS, CLERK  
CASPER

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRANDON KENNETH NYBERG,

Defendant.

No.

21CR57-J

Ct 1: 43 C.F.R. § 9212.1(a) and (c)  
(Unlawfully Causing a Fire to be  
Started and Burn Grass and Brush  
on BLM Land)

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INFORMATION

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THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT ONE

On or about July 9, 2018, in the District of Wyoming, the Defendant, **BRANDON KENNETH NYBERG**, knowingly caused a fire, other than a campfire, and burned timber, trees, slash, brush, tundra and grass on land administered by the Bureau of Land Management.

In violation of 43 C.F.R. § 9212.1(a) and (c).

**AFFIDAVIT OF SPECIAL AGENT THOMAS M. HILL  
IN SUPPORT OF SUMMONS**

I, Thomas M. Hill, being first duly sworn, hereby state and affirm as follows:

1. I am a Special Agent for the United States Department of Interior (DOI), Bureau of Land Management (BLM) and have been since December 2018. I am authorized by the Secretary of the Interior to conduct searches and seizures and to make arrests, as authorized by law, pursuant to the Federal Land Policy and Management Act of 1976. In that capacity, my daily duties include the investigation of violations of federal offenses occurring on public lands administered by the BLM.
2. The facts set forth in this affidavit are based on my own personal knowledge, the knowledge and observations of other law enforcement officers, information provided to me by suspects and witnesses, and my review of documents related to this investigation. Because this affidavit is submitted for the limited purpose of establishing probable cause that BRANDON KENNETH NYBERG committed offenses in violation of 43 C.F.R § 9212.1(a) and (c), it does not set forth every fact that I or others have learned during this investigation.
3. On July 9, 2018, while working near a fire known as the "Terek Fire" in Big Horn County, Wyoming, BLM Supervisory Ranger Brad Jones was advised of a new fire near McDermott Butte and HWY 31, Manderson, Wyoming. Ranger Jones was attempting to gain access to the fire when he received information about another fire that had ignited off HWY 31; both fires were believed and later confirmed to be human caused. Ranger Jones arrived at 920 HWY 31, Manderson, Wyoming and observed two

subjects, later identified as Brandon NYBERG and Sierra Brown, with a water hose standing east of a barn and house.

4. Ranger Jones interviewed NYBERG and NYBERG said he had not seen much, that he was watching the fire in the distance when he noticed it burning in the field near his grandparent's residence. NYBERG said he did not see anyone in the area who could have started the fire and it must have been a spot fire from the larger Terek Fire in the area. NYBERG denied starting the fires.
5. Ranger Jones also interviewed Sierra Brown. Brown said she was sleeping when NYBERG woke her and directed her to turn on the water. Brown did not recall seeing anyone in the field who could have started the fire.
6. On July 10, 2018, BLM Ranger Robert Lind was on the scene of the McDermott Butte and HWY 31 fires to conduct an Origin and Cause Investigation when he was approached by NYBERG on a bicycle. Ranger LIND knew NYBERG resided at the address and had been interviewed by Ranger Jones the previous evening. Ranger Lind asked NYBERG if he had photos of the fires and NYBERG replied he had some on his phone. Ranger Lind asked NYBERG what happened the previous day and was told NYBERG and Brown went for a hike on the Butte in the afternoon where he took photos of the Terek Fire. NYBERG and Brown returned home, and Brown took a nap. NYBERG said he returned to the Butte while Brown was sleeping and noticed the fires getting closer, so he woke Brown and directed her to turn on the water. Ranger Lind requested to see the photos on NYBERG's phone and to transfer them to his government issued iPad, to which NYBERG agreed.

7. On July 18, 2018, BLM Fire Investigator Teresa Rigby conducted an Origin and Cause Investigation and estimated the McDermott Butte Fire started on and burned approximately 6 acres of BLM managed lands, while the HWY 31 Fire started on private land and burned onto BLM managed lands. Through her investigation, Investigator Rigby was able to eliminate accidental and natural sources as possible causes of the fires. This information, coupled with data collected, the fire progression, and interviews, led Investigator Rigby to determine that both fires were incendiary (intentional) "hot sets." Hot sets, or the application of an open flame, such as a lighter, are commonly used by arsonists because they allow the removal of the device [such as a lighter], leaving no trace when investigators locate the fire's origin.
8. On May 3, 2019, Ranger Jones and I met with NYBERG at his grandparent's residence located at 920 Highway 31, Manderson, Wyoming for a scheduled interview concerning the McDermott Butte and Highway 31 Fires. NYBERG'S grandparents were present at the beginning of the interview. I advised NYBERG the interview was voluntary; he could ask me to leave at any time and I had no intention of arresting him. When asked about the day of the fires, NYBERG recalled hiking the butte near his grandparent's house with Brown in the morning and spending most of the day driving on the "oil field roads" observing and taking pictures of the Terek Fire and suppression efforts. After returning from their drive, NYBERG and Brown hiked the butte again to take more pictures. NYBERG's grandfather was interrupting the interview so I asked NYBERG to join me in my government vehicle to complete the interview. I advised NYBERG he was not in custody, and he was free to leave at any time. When asked how he thought the fires started, NYBERG said he thought they spread from the



original fire or may have been started by a former friend of his. When asked if he saw his friend or the friend's vehicle on the day of the fires, NYBERG said he had not. I told NYBERG a cause and origin investigation had ruled out all natural and accidental causes. This fact coupled with a male subject having been observed on the butte prior to the fires starting was very suspicious. I advised NYBERG he could stop talking to me at any time, he was not in custody, and he was not going to jail. NYBERG said, "I'm not worried about it." When asked to be honest about whether and how he had started fires on BLM lands, NYBERG initially claimed he thought he had accidentally caused the fires with his cigarette or by "back burning," that is, starting fires to protect his grandparent's property. However, when confronted with the fact that the fire investigation did not corroborate either of those causes, NYBERG admitted to starting the fires with a lighter.

END OF AFFIDAVIT

THOMAS M. HILL

Special Agent, Bureau of Land Management

The foregoing affidavit was acknowledged before me by Thomas M. Hill this 4 day of May 2021.

Witness my hand and official seal.

Cheyenne Watts  
Notary Public

My commission expires:

9/19/22



DATED this 5<sup>TH</sup> day of May 2021.

L. ROBERT MURRAY  
Acting United States Attorney

By:

Kerry J. Jacobson  
KERRY J. JACOBSON

Assistant United States Attorney

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**PENALTY SUMMARY**

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**DEFENDANT NAME:** BRANDON KENNETH NYBERG

**DATE:** May 3, 2021

**INTERPRETER NEEDED:** No

**VICTIM(S):** No

**OFFENSE/PENALTIES:**

**Ct: 1 43 C.F.R. § 9212.1(a) and (c)**  
(Unlawfully Causing a Fire to be Started and Burn Grass and  
Brush on BLM Land)

Up to 1 Year Imprisonment

Up to \$1000 Fine

Up to 1 Year Supervised Release

Up to 5 Years Probation (as an alternative to imprisonment  
and supervised release)

\$25 Special Assessment

**TOTAL:**

Up to 1 Year Imprisonment

Up to \$1000 Fine

Up to 1 Year Supervised Release

Up to 5 Years Probation (as an alternative to imprisonment  
and supervised release)

\$25 Special Assessment

**AGENT:** Thomas Hill, BLM Special Agent

**AUSA:** Kerry Jacobson, Assistant United States Attorney

**ESTIMATED TIME OF  
TRIAL:**

1 to 2 days

**WILL THE GOVERNMENT  
SEEK DETENTION:**

No

**ARE THERE DETAINERS  
FROM OTHER  
JURISDICTIONS:**

No